

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

Roy A. Durham, Jr., :
Plaintiff(s), :
Case Number: 1:14cv816
vs. :
Judge Susan J. Dlott
Ernie Moore, et al., :
Defendant(s). :
:

ORDER

This matter is before the Court pursuant to the Order of General Reference in the United States District Court for the Southern District of Ohio Western Division to United States Magistrate Judge Stephanie K. Bowman. Pursuant to such reference, the Magistrate Judge reviewed the pleadings and filed with this Court on January 29, 2015 a Report and Recommendation (Doc. 11). Subsequently, the plaintiff filed objections to such Report and Recommendation (Doc. 17). The Magistrate Judge issued an additional Report and Recommendation on March 20, 2015 (Doc. 18) and plaintiff again filed objections (Doc. 20). The Magistrate Judge issued a third Report and Recommendation on July 7, 2015 (Doc. 23). Objections were due on July 24, 2015. Objections were not filed.

The Court has reviewed the comprehensive findings of the Magistrate Judge and considered de novo all of the filings in this matter. Upon consideration of the foregoing, the Court does determine that such Recommendations should be adopted.

With respect to the Report and Recommendation filed on January 29, 2015 (Doc. 11) and the objections (Doc. 17) the Court ORDERS that the claims asserted in the amended complaint against Southern Ohio Correctional Facility (SOCF) and Toledo Correctional Institution (ToCI)

defendants as well as against the Ohio Department of Rehabilitation and Correction (ODRC) defendants based on incidents that occurred at SOCF and ToCi are DISMISSED without prejudice.

With respect to the Report and Recommendation filed on March 20, 2015 (Doc. 18) and the objections filed on April 7, 2015 (Doc. 20), the Court ORDERS plaintiff's case is DISMISSED with prejudice for lack of prosecution due to plaintiff's failure to comply with the Courts orders of January 29, and February 20, 2015.

Plaintiff's objections to the January 29, 2015 Order and Report and Recommendation (Doc. 17) are OVERRULED.

The Court certifies pursuant to 28 U.S.C. §1915(a)(3) that an appeal of any Order adopting the Report and Recommendation will not be taken in good faith. *See McGore v. Wrigglesworth*, 114 F.3d 601 (6th Cir. 1997).

The Court determines from the Report and Recommendation issued July 7, 2015 (Doc. 23) that the plaintiff's Motion to Stay is DENIED. Plaintiff has previously filed objections to the two Report and Recommendations filed January 29, 2015 and March 20, 2015 (Doc. 11 and 18). In addition, five months elapsed since plaintiff was first ordered to file a second amended complaint limited to 20 pages and incidents that occurred at Lebanon Correctional Institute (LeCI) when he was incarcerated there from October 2012 to June 2013. Plaintiff did not comply with the Court's order even though he was granted an additional 21 day extension in which to do so, which expired on March 13, 2015. Plaintiff has not provided any explanation that would

justify his failure to file a second amended complaint, particularly given that he has been prosecuting this case by filing numerous other lengthy documents and motions.

IT IS SO ORDERED.

s/Susan J. Dlott
Judge Susan J. Dlott
United States District Court